

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
LARRY D. VAUGHT, JUDGE

DIVISION III

CACR07-659

February 27, 2008

CARROLL JOHNSON
APPELLANT

APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT
[CR2005-4243]

V.

HON. CHRISTOPHER PIAZZA,
JUDGE

STATE OF ARKANSAS
APPELLEE

AFFIRMED

Following a bench trial, appellant Carroll Johnson was convicted of sexual indecency with a child, indecent exposure, and carrying a weapon. On appeal, Johnson only challenges the sufficiency of the evidence supporting the weapons conviction. We affirm.

In September 2005, Little Rock Police Officer Jeffery Plunkett was assigned to the downtown patrol division. Officer Plunkett testified that he had received complaints that a man, who was driving a green vehicle while fondling himself, was following teenage female pedestrians. On September 8, 2005, Officer Plunkett observed a vehicle matching the description given by the complainant. The officer stopped the vehicle. As he approached it, he observed a hatchet handle (without a blade) sitting next to the driver's seat. The driver, later identified as Johnson, was arrested. Incident to the arrest, Officer Plunkett conducted an

inventory search of Johnson's vehicle. As part of the search, the hatchet handle was confiscated.

At trial, Johnson twice moved for a directed verdict. His motions included a challenge to the sufficiency of the evidence relating to the charge of carrying a weapon. The trial court denied the motions and found Johnson guilty of the charge.¹

Johnson, on appeal, contends that the trial court erred in denying his motions for directed verdict because the State failed to introduce sufficient evidence that the hatchet handle was a weapon. We treat a motion for a directed verdict as a challenge to the sufficiency of the evidence, and we view the evidence in a light most favorable to the State, considering only the evidence that supports the verdict. *Hunt v. State*, 354 Ark. 682, 128 S.W.3d 820 (2003). We affirm a conviction if substantial evidence exists to support it. *Id.* Substantial evidence is that which is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or the other, without resorting to speculation or conjecture. *Id.*

The crime of carrying a weapon, as set forth in Arkansas Code Annotated section 5-73-120(a) (Repl. 2005), occurs when “[a] person...possesses a handgun, knife, or club on or about his or her person, in a vehicle occupied by him or her, or otherwise readily available for use with a purpose to employ [it] as a weapon against a person.” Johnson argues that the State failed to establish that the hatchet handle was a “club” as defined by the statute.

¹Johnson's motions for directed verdict on the charges of sexual indecency with a child and indecent exposure were also denied. The trial court found Johnson guilty of these charges as well. Johnson does not challenge these findings on appeal.

A “club” is defined in section 5-73-120 as “any instrument that is specially designed, made, or adapted for the purpose of inflicting serious physical injury or death by striking, including a blackjack, billie, and sap.” Ark. Code Ann. § 5-73-120(b)(1). A hatchet handle is not specifically listed as an example of a “club” in the statute. Therefore, we must interpret the statute to determine whether a hatchet handle meets the definition of a “club.”

We review questions of statutory interpretation *de novo* and construe criminal statutes strictly, resolving any doubts in favor of the defendant. *Lampkin v. State*, ___ Ark. App. ___, ___ S.W.3d ___ (Feb.13, 2008). The first rule of statutory construction is to construe the statute just as it reads, giving the words their ordinary and usually accepted meaning in common language. *Id.* When the language is plain and unambiguous, there is no need to resort to rules of statutory construction, and the analysis need go no further. *McNabb v. State*, 367 Ark. 93, 238 S.W.3d 119 (2006).

When reading the statute in question, giving the words their ordinary and usually accepted meaning in common language, it is clear that the hatchet handle in the instant case meets the definition of a “club” because there was evidence in the record that the hatchet handle had been adapted for the purpose of inflicting serious physical injury or death by striking. For example, when the hatchet handle was confiscated by police, it had no blade attached to it. No blade was found when Johnson’s vehicle was searched. Officer Plunkett testified that he observed the hatchet handle in Johnson’s vehicle propped up against the console, “readily accessible to the driver.” The officer further testified that Johnson “could have grabbed [the hatchet handle] very easily. It was positioned in a way where he could pick

it up and swing it at somebody.” We also note that when Officer Plunkett testified at trial, he consistently referred to the hatchet handle as a wooden club.² A photograph of the hatchet handle depicts a wooden club.

While Johnson testified that he had the hatchet handle in his car because he was taking it to be repaired—not that he had adapted it to use as a weapon—this is contrary to the evidence because no hatchet blade was found in his vehicle. Further, the trial court is not required to believe any witness’s testimony, especially the testimony of the accused, because he has the most interest in the outcome of the proceedings. *Nesdahl v. State*, 319 Ark. 277, 890 S.W.2d 596 (1995).

Finally, Johnson argues that the statutory definition of “club” focuses on the design of the object—not on its use—and the hatchet was not designed as a weapon. We disagree. The definition of a “club” found in section 5-73-120 does not *focus* on the design of the object. The statute defines a “club” as an instrument specially *designed, made, or adapted* for the purpose of inflicting serious physical injury or death by striking. And while a hatchet may not be specially designed as a weapon, a hatchet handle, without the blade, can be an instrument specially adapted as a weapon.

Accordingly, we hold that substantial evidence supports the trial court’s denial of Johnson’s motions for directed verdict on the issue of whether the hatchet handle was a weapon pursuant to Arkansas Code Annotated section 5-73-120.

Affirmed.

²Johnson’s counsel also described the hatchet handle as a wooden club during his first directed-verdict motion.

GRIFFEN and BAKER, JJ., agree.